

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**IN RE: NATIONAL PRESCRIPTION,
OPIATE LITIGATION**

MDL NO. 2804

Case No. 17-MD-2804

Judge Dan Aaron Polster

THIS DOCUMENT RELATES TO:

Rees v. McKesson Corporation, et al.
MDL Case #1:18-OP-45252

Ellis v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45464

Simonson v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45479

Wood v. Purdue Pharma L.P., et al.
MDL Case #1:18-OP-45264

DeMaro v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45465

Delancey v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45480

Salmons v. Purdue Pharma L.P., et al.
MDL Case #1:18-OP-45268;

Cruz v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45466

Stewart v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45481

Ambrosio v. Purdue Pharma L.P., et al.
MDL Case #1:18-OP-45375

Paul v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45467

Shenmake v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45482

Flanagan v. Purdue Pharma L.P., et al.
MDL Case #1:18-OP-45405

Lechuga v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45468

Weatherwax v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45483

Whitley v. Purdue Pharma L.P., et al.
MDL Case #1:18-OP-45598

Brumbarger v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45469

Martinez v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45484

Roach v. McKesson Corporation, et al.
MDL Case No. #1:18-OP-45662

Means v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45470

Warren v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45486

Hunt v. Purdue Pharma L.P., et al.
MDL Case No. #1:18-OP-45681

Peterson v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45472

Carlson v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45487

Hanlon v. Purdue Pharma L.P., et al.
MDL Case No. #1:19-op-45052

Hampel v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45473

Flach v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45488

Doyle v. Purdue Pharma L.P., et al.
MDL Case No. #1:18-op-46327

Whittaker v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45475

Ivie v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45489

Moore v. Purdue Pharma L.P., et al.
MDL Case No. #1:18-op-46305

Tuttle v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45476

Cherry v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45490

Artz v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45459

Hamawi v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45477

Ortiz v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45492

Rodriguez v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45463

Gauthier v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45478

Meinecke v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45493

Brant v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45494

Williams, v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45485

AMENDED JOINT PROPOSED SCHEDULING ORDER
AND POSITIONS ON SCHEDULING¹

Pursuant to the Court's order of September 17, 2019, and subject to the objections set forth in the positions of both parties, *infra*, the Plaintiffs in the above-captioned cases ("NAS Plaintiffs") and Defendants identified below² respectfully submit the below proposed scheduling order for the motion on NAS class certification:

Proposed Scheduling Order:

1. NAS Plaintiffs shall disclose on **October 2, 2019** the four cases that will be amended, the identities of the plaintiffs in those four cases, the definitions of the classes those plaintiffs seek to represent, and the identities and area of expertise for any experts whom plaintiffs intend to offer in support of class certification.
2. NAS Plaintiffs shall file their amended complaints in four of the cases to which this Order is applicable no later than **October 7, 2019**. These complaints will be subject to no further amendment and will be the subject of the representative motions for class certification to be heard by the Court.
3. Plaintiffs shall produce to defendants on **October 7, 2019** completed, signed fact sheets for all plaintiffs identified in the four amended complaints. In order for a fact sheet to be complete it must be accompanied by all requested documentation. The fact sheet to be completed by Plaintiffs is attached hereto as Exhibit A.
4. Plaintiffs shall respond to defendants' discovery requests, and produce responsive, non-privileged documents, within 14 days of service of any requests.
5. Plaintiffs shall file their consolidated motion for class certification, accompanied by any expert reports, on **October 21, 2019**.

¹ This filing supersedes that at ECF No. 2690, which was filed in error.

² Certain defendants that may be named in the above-captioned cases or soon to be filed amended pleadings are not subject to personal jurisdiction in some or all of these cases, in which responsive pleadings are not yet due pursuant to the Court's orders. Defendants submit this filing as instructed by the Court but subject to, and without waiver of, all defenses, including lack of personal jurisdiction, no service of process, or ineffective service of process, in each case.

6. Plaintiffs shall make their experts and class representatives available for deposition before **November 22, 2019**.
7. Defendants' opposition to class certification, accompanied by any expert reports, shall be due on **December 9, 2019**.
8. Defendants shall make their experts available for deposition before **December 20, 2019**.
9. Plaintiffs' reply shall be due on **December 30, 2019**.

Plaintiffs' Position:

Plaintiffs object to the Court's order (as communicated by the Special Master), requiring them to conclude all class certification proceedings by end of year. As the Court is aware, Plaintiffs have fought long and hard against the efforts of the PEC to sweep these claims under the rug, while concomitantly and falsely asserting that these interests are being protected by the PEC. It is only now that Plaintiffs have been allowed an opportunity to begin to advocate for themselves and the putative classes.

These are highly serious matters which require best efforts and undivided attention from putative class counsel and this Court. The interests of the NAS infants and children under this Court's protection demand that the process take place judiciously and with a mind toward the gravity of their plight. Rushing through this process is highly inappropriate.

To that end, Plaintiffs join in this proposed scheduling order with serious objection. ***All dates must move forward by four months, including the filings of Motions for Class Certification by February 8, 2020.*** Nothing less will allow Plaintiffs and the putative class their due process of law.

Defendants' Position:

Defendants have negotiated and proposed this schedule, which concludes on December 30, 2019, in keeping with the Court's order to provide a schedule for class certification ending by the end of the year. The Court's order arose from unilateral motions by the NAS Plaintiffs to which Defendants were not given time to respond. Defendants have objected to the Special Master and continue to object to this deadline, which does not provide adequate time for Defendants to conduct discovery of Plaintiffs' class representatives.

Defendants have sought for a month to mitigate the effects of this compressed schedule by starting the discovery process promptly. On August 25, Defendants requested from Plaintiffs the most basic information about their claims, including in which cases amendments will be filed, what the putative classes will be, what claims are being asserted on behalf of those classes, who the class representatives will be, and what law or laws will be at issue. Plaintiffs have not provided substantive responses and have indicated that they are not able to do so until their amended complaints are due on October 7. As a result, Defendants have been unable to prepare for or begin conducting discovery.

Dated: September 30, 2019

Respectfully submitted,

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³ On September 15, 2019, Purdue Pharma L.P. and its affiliated debtors filed voluntary petitions for relief under chapter 11 of United States Bankruptcy Code in the United States Bankruptcy Court for the Southern District of New York. Purdue Pharma L.P.'s case is docketed as *In re Purdue Pharma L.P.*, No. 19-23649. Also on September 18, 2019, Purdue Pharma L.P. and its affiliated debtors filed a motion for preliminary injunction seeking an order staying certain active cases to the extent not already stayed by the automatic stay. To otherwise preserve and without waiving any rights, and out of an abundance of caution, Purdue joins in this proposed scheduling order.

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CERTIFICATE OF SERVICE

A copy of the foregoing was filed via the Court's electronic filing system on September 30, 2019. Notice of this filing will be sent by e-mail through the Court's electronic case-filing system to all counsel of record.

/s/Emily S. Ullman
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